

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

MIGUEL G. MORFIN,)	CASE NO. 4:08 CV 2595
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
WARDEN GUNJA,)	<u>AND ORDER</u>
)	
Defendant.)	

On November 3, 2008, plaintiff pro se Miguel G. Morfin, an inmate at the Lompoc Federal Correctional Institution, filed this 42 U.S.C. § 1983 action against Northeast Ohio Correctional Center (NEOCC) Warden Gunja. The complaint alleges plaintiff was held under adverse conditions of confinement at NEOCC, and seeks an order requiring the Bureau of Prisons to award him two days sentencing credit for each day he served there. For the reasons stated below, this action is dismissed.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th

Cir. Feb. 1, 2000).

Plaintiff is essentially challenging length of his present confinement. When a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed under 28 U.S.C. § 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/Peter C. Economus - 12/24/08
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE